

[13 & 14 GEO. 5.] *Wimbledon and* [Ch. xcvi.]
Sutton Railway Act, 1923.



CHAPTER xcvi.

An Act to extend the time for the compulsory purchase of lands for and for the construction and completion of the railways and works authorised by the Wimbledon and Sutton Railway Act 1910 to raise additional capital and for other purposes. A.D. 1923.
[2nd August 1923.]

WHEREAS the Wimbledon and Sutton Railway Company (hereinafter called "the Company") were incorporated by the Wimbledon and Sutton Railway Act 1910 (hereinafter referred to as "the Act of 1910") and were empowered by that Act to construct the railways and works in the county of Surrey therein described and to raise three hundred and fifty thousand pounds in shares :

And whereas by the Wimbledon and Sutton Railway Act 1913 (hereinafter referred to as "the Act of 1913") the Company were empowered to raise two hundred thousand pounds additional capital in new ordinary shares or stock or new preference shares or stock and to borrow on mortgage of their undertaking any sum not exceeding in the whole one-third part of the amount of the capital in shares or stock of the Company for the time being issued and accepted :

And whereas the Company have issued five hundred and thirty-five shares of ten pounds each of the capital authorised by the Act of 1910 and such shares have been paid up but the Company have not created and issued any of the additional capital authorised by the Act

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A.D. 1923. of 1913 and have not borrowed on mortgage or created
— and issued any debenture stock :

And whereas by reason of the late war the Company have not been able to construct the said railways and works :

And whereas the estimated cost of constructing the said railways and works has so increased by reason of the development of the district in and through which such railways and works will be constructed and by reason of the great increase in the cost of material and labour as to make the capital authorised by the Act of 1910 and the Act of 1913 to be raised for and in connection with the execution of the said railways and works and the provision of the necessary rolling stock therefor inadequate and it is estimated that the cost of the said railways and works and rolling stock will now amount in the aggregate to about one million three hundred thousand pounds and it is expedient that further powers in relation to the raising of capital and borrowing should be conferred on the Company as in this Act mentioned :

And whereas by the Act of 1913 the Metropolitan District Railway Act 1915 and by Orders made under the Special Acts (Extension of Time) Act 1915 by the Board of Trade and dated the fifteenth day of May one thousand nine hundred and eighteen the eleventh day of April one thousand nine hundred and nineteen and by the Minister of Transport dated the seventeenth day of March one thousand nine hundred and twenty the fourth day of December one thousand nine hundred and twenty the eighteenth day of January one thousand nine hundred and twenty-two and the eighteenth day of September one thousand nine hundred and twenty-two (all of which Acts and Orders are hereinafter referred to as "the recited Acts and Orders") the time limited by the Act of 1910 for the compulsory purchase of lands for and for the construction and completion of the railways and works thereby authorised was extended to the twenty-sixth day of July one thousand nine hundred and twenty-four :

And whereas it is expedient further to extend as hereinafter provided the time so extended as aforesaid :

And whereas the county council of the administrative county of Surrey are proposing to construct an

arterial road known as the Sutton By-Pass Road across the site of the Railway No. 5 authorised by the Act of 1910 and in order to enable that railway to be carried over such road it is expedient that the Company should be authorised to make such alteration in the levels of the said railway as is provided in this Act: A.D. 1923.

And whereas in the month of April last a plan and section showing such alteration of the levels of portion of the said Railway No. 5 with a book of reference to such plan containing the names of the owners and lessees or reputed owners and lessees and of the occupiers of the lands required or which may be taken or used for the purposes of the said alteration of levels were deposited with the clerk of the peace for the county of Surrey and are hereinafter respectively referred to as the deposited plan section and book of reference:

And whereas it is expedient that the other powers in this Act mentioned should be conferred on the Company:

And whereas the purposes of this Act cannot be effected without the authority of Parliament:

May it therefore please Your Majesty that it may be enacted and be it enacted by the King's most Excellent Majesty by and with the advice and consent of the Lords Spiritual and Temporal and Commons in this present Parliament assembled and by the authority of the same as follows:—

PART I.

PRELIMINARY.

1. This Act may be cited as the Wimbledon and Sutton Railway Act 1923 and shall be deemed to be an Act modifying extending or amending the Act of 1910 the Act of 1913 and the Act of 1915. Short title.

2. This Act is divided into Parts as follows:— Division of Act into Parts.

- Part I.—Preliminary.
- Part II.—Extension of time.
- Part III.—Capital.
- Part IV.—Alteration of levels.
- Part V.—Miscellaneous.

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Incorporation of Acts.

3. The following Acts and parts of Acts as amended by any subsequent Act are (subject to the provisions of and so far as the same are applicable and where not expressly varied by or inconsistent with this Act) incorporated with and form part of this Act (that is to say):—

The Lands Clauses Acts;

The Railways Clauses Consolidation Act 1845;

Part II. (Extension of time) of the Railways Clauses Act 1863;

The Companies Clauses Consolidation Act 1845;

Part I. (relating to cancellation and surrender of shares) Part II. (relating to additional capital) except the provisions thereof which limit the rate of dividend on preference capital and Part III. (relating to debenture stock) of the Companies Clauses Act 1863 as amended by any subsequent Act.

Interpretation.

4. In this Act the several words and expressions to which meanings are assigned by the Acts wholly or partially incorporated herewith have the same respective meanings unless there is something in the subject or context repugnant to such construction And in this Act—

The expression “the Company” means the Wimbledon and Sutton Railway Company;

The expressions “the Act of 1910” and “the Act of 1913” mean the Wimbledon and Sutton Railway Act 1910 and the Wimbledon and Sutton Railway Act 1913 respectively;

The expression “the Act of 1915” means the Metropolitan District Railway Act 1915;

“The railway” or “the railways” means the railways pathway and works authorised by the Act of 1910 as varied by the Act of 1913 the Act of 1915 and this Act;

The expression “the deposited plan section and book of reference” means the plan section and book of reference deposited in respect of the alteration authorised by this Act of the levels of portion of Railway No. 5 authorised by the Act of 1910.

PART II.

A.D. 1923.

EXTENSION OF TIME.

5. The powers granted to the Company by the Act of 1910 for the construction and completion of the railways which were extended by the recited Acts and Orders are hereby extended and shall continue in force to the twenty-sixth day of July one thousand nine hundred and twenty-eight and the Act of 1910 shall be read and construed as if the extended period granted by this Act for the construction and completion of the railways had been the period limited by the Act of 1910 for the construction and completion thereof.

Extension
of time for
completion
of railways.

6. The powers granted to the Company by the Act of 1910 for the compulsory purchase and taking of lands and property for the purposes of the railways which were extended by the recited Acts and Orders are hereby extended and shall continue in force to the twenty-sixth day of July one thousand nine hundred and twenty-eight and the Act of 1910 shall be read and construed as if the extended period granted by this Act for the compulsory purchase and taking of lands and property for the purposes of the railways had been the period limited by the Act of 1910 for the compulsory purchase and taking of lands and property. Provided that the provisions of this section shall apply to and the said extended period granted by this Act shall be deemed to be the extended time referred to in sub-paragraph (b) of subsection (3) of section 74 (For protection of owner of Wimbledon Laundry) of the Act of 1910.

Extension
of time for
compulsory
purchase of
lands.

7. When any department of His Majesty's Government represents to the Minister of Transport that the use of electrical power under the Act of 1910 as amended by this Act injuriously affects or is likely injuriously to affect any instruments or apparatus whether electrical or not used in any observatory or laboratory belonging to or under the control of that department the Minister of Transport after such inspection or inquiry as he may think proper may by regulations made by him under section 61 (Provisions as to use of electrical power) of the Act of 1910 require the Company to use such reasonable and proper precautions including insulated returns as the Minister may deem necessary for the prevention of such injurious affection

Special
provisions
as to use of
electrical
power.

A.D. 1923. For the purposes of this section any inspector of the
Ministry of Transport may during his inspection of the
Company's works and apparatus be accompanied by
any person or persons appointed in that behalf by the
Government department concerned and the Company
shall give all due facilities for the inspection. Provided
always that in the case of any observatory or laboratory
established after the passing of the Act of 1910 or of any
instruments or apparatus hereafter used in any existing
observatory or laboratory which may be of greater
delicacy than those used therein at the passing of the
Act of 1910 the Minister of Transport shall consider to
what extent if any it is expedient in the interests of the
public that the powers of this subsection should be
exercised regard being had to the site of the observatory
or laboratory or the purposes of the instruments or
apparatus as the case may be.

For protec-
tion of
Merton and
Morden
Urban
District
Council.

8. The following provisions for the protection and
benefit of the Merton and Morden Urban District Council
(in this section called "the council") shall notwith-
standing anything contained in this Act or shown on
the plans and sections deposited for the Act of 1910 and
unless otherwise agreed in writing between the council
and the Company have effect with respect to so much
of the railways and works which the Company are autho-
rised to construct and make as shall be within the district
of the council (that is to say):—

- (1) The bridge over Kingston Road shall not-
withstanding the provisions of subsection (1)
of section 65 (For protection of Merton Urban
District Council) of the Act of 1910 as amended
by section 9 of the Act of 1913 be constructed
with a clear span equal to the average width
not exceeding eighty feet of the roadway within
one hundred feet of the centre of the bridge
or if at the time of the construction of the
railway such road shall not have been widened
to eighty feet with a clear span equal to such
width not exceeding eighty feet as the council
may have notified the Company they are then
about to widen the said road:
- (2) Subsection (1) of section 65 (For protection of
Merton Urban District Council) of the Act

of 1910 shall be read and have effect as if the span of the bridge over Cannon Hill Lane therein referred to were to be forty-five feet instead of forty feet: A.D. 1923

- (3) The bridges carrying the roads known as Green Lane Merton and Green Lane Morden respectively over the railway shall be of a width of not less than fifty feet measured on the square across each of such roads respectively:
- (4) The railways shall be carried respectively over the road known as Whatley Avenue and a new road to be constructed under the town planning scheme of the council at a point approximately one mile two furlongs from the commencement of Railway No. 5 authorised by the Act of 1910 that is to say approximately half-way between the junction of Green Lane with Mostyn Road and the London and Epsom main road by means of bridges to be provided and maintained by the Company and each of such bridges shall be constructed of a clear span throughout measured on the square across the said roads respectively and with the headways throughout from the levels of the said roads respectively as is in this section hereafter provided (that is to say):—
- (a) The bridge over the said Whatley Avenue shall be constructed with a clear span equal to the width of the existing roadway and with a headway of sixteen feet above the level of the kerb of the foot-path;
- (b) The bridge over the said new road shall be constructed with a clear span of fifty feet and with a headway of seventeen feet above a level not less than sixty-two feet above ordnance datum:
- (5) The provisions of section 65 (For protection of Merton Urban District Council) of the Act of 1910 as varied by this section shall so far as they are applicable extend and apply to the works referred to in this section.

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PART III.

CAPITAL.

Power to
raise addi-
tional
capital.

9. The Company may by virtue of this Act and without any further or other authority from time to time raise by the creation and issue of preference stock additional capital not exceeding in the whole six hundred thousand pounds nominal capital in addition to the capital authorised by the Act of 1910 and the Act of 1913.

New stock to
form part of
capital of Com-
pany.

10. The capital in new stock so created shall form part of the capital of the Company.

Power to
issue ordi-
nary and
preference
stock.

11. The Company may by virtue of this Act and without any further or other authority—

- (a) convert or consolidate all or any part of the original share capital of three hundred and fifty thousand pounds created by the Act of 1910 in respect whereof the whole money subscribed shall have been paid up into ordinary stock to be divided amongst the shareholders according to their respective interests therein;
- (b) issue the whole or any part of the remainder of such original share capital as ordinary stock;
- (c) create and issue the whole or any part of the additional capital of two hundred thousand pounds authorised by the Act of 1913 as preference stock.

As to prefer-
ence stock.

12. Notwithstanding anything contained in the Act of 1910 the Act of 1913 or this Act or any Act incorporated with any of those Acts all preference stock issued by the Company after the passing of this Act under the powers of the Act of 1913 or issued by the Company under the powers of this Act shall carry a fixed preferential dividend at such rate as the directors may determine at the time or times of the issue thereof and shall be entitled to such rights and privileges and be subject to such terms and conditions as the directors may determine at the time or times of the issue thereof and shall unless otherwise determined at the time or times of the issue thereof rank for all purposes *pari passu*.

13. Except as otherwise expressly provided by the resolution creating the same no person shall be entitled to vote in respect of any shares or stock to which a preferential dividend shall be assigned.

A.D. 1923.

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Restriction as to votes in respect of preferential shares or stock.

14. Notwithstanding anything contained in Part II. of the Companies Clauses Act 1863 the Company may in issuing any unissued portion of the capital authorised by the Act of 1910 and the Act of 1913 and the additional capital authorised by this Act dispose of any of the stock representing the same at such price at such time to such persons on such terms and conditions and in such manner as the directors think advantageous to the Company.

As to disposal of stock.

15.—(1) The Company may from time to time borrow on mortgage of the undertaking or by the creation and issue of debenture stock carrying interest at such a rate as the Company think fit any sums not exceeding in the whole one half part of the nominal amount of the capital in shares or stock of the Company authorised by the Act of 1910 the Act of 1913 and by this Act at the time being actually issued and accepted but no part of any such sum shall be borrowed until the shares for so much of the capital as is to be raised by means of shares in respect of which the borrowing power is exercised are issued and accepted as aforesaid and one-half thereof is paid up and the Company shall have proved to the justice who is to certify under the fortieth section of the Companies Clauses Consolidation Act 1845 before he so certifies that such shares have been issued and accepted and that one-half thereof has been paid up and that not less than one-fifth part of the amount of each separate share issued and accepted has been paid on account thereof before or at the time of the issue or acceptance thereof and until stock for one-half of so much of the capital as is to be raised by means of stock in respect of which the borrowing power is exercised is fully paid up and the Company have proved to such justice as aforesaid before he so certifies that such shares or stock as the case may be were issued and accepted and to the extent aforesaid paid up bonâ fide and are held by the persons or corporations to whom the same were issued or their executors administrators successors or assigns and also so far as the capital is raised by shares that such persons or corporations their executors administrators successors or assigns are legally

Power to borrow.

A.D. 1923. — liable for the same and upon production to such justice of the books of the Company and of such other evidence as he shall think sufficient he shall grant a certificate that the proof aforesaid has been given which certificate shall be sufficient evidence thereof.

(2) Subsection (1) of section 21 (Power to borrow) of the Act of 1913 is hereby repealed.

Debenture stock.

16.—(1) The Company may create and issue debenture stock but notwithstanding anything contained in Part III. of the Companies Clauses Act 1863 the interest of all debenture stock and of all mortgages at any time created and issued or granted by the Company under this or any subsequent Act shall subject to the provisions of any subsequent Act rank *pari passu* (without respect to the dates of the securities or of the Acts of Parliament or resolutions by which the stock and mortgages were authorised) and shall have priority over all principal moneys secured by such mortgages. Notice of the effect of this enactment shall be endorsed on all mortgages and certificates of debenture stock.

(2) Section 27 (Debenture stock) of the Act of 1910 is hereby repealed.

Power to issue debenture stock certificates to bearer.

17. The provisions of section 27 (Power to issue debenture stock certificates to bearer) of the Act of 1913 are so far as applicable incorporated with and form part of this Act and shall extend and apply to the debenture stock to be created under the provisions of this Act as if the same had been re-enacted in this Act.

Power to create and issue redeemable debenture stock.

18.—(1) The Company may from time to time by virtue of this Act and without further or other sanction create and issue any debenture stock which the Company are by this Act authorised to create and issue or any part thereof so as to be redeemable either at par or at such premium (not exceeding five per centum) and at such dates or in such events and on such terms and conditions and in such manner as may be determined at or before the issue thereof.

(2) Section 28 (Debenture stock may be redeemable) of the Act of 1910 is hereby repealed.

Redemption of debenture stock.

19.—(1) The Company may if the terms of issue so provide (a) call in and pay off at any time before the fixed date of redemption thereof any debenture stock

which is issued by them under the powers of this Act as redeemable debenture stock and (b) redeem any redeemable debenture stock so issued or any part thereof in all or some of the following ways videlicet either by paying off the same or by purchasing the same in the market or by tender at any price not exceeding the redemption price thereof or by issuing to any holder thereof subject to his consent other debenture stock either redeemable or not redeemable in substitution therefor Any debenture stock so paid off or redeemed shall be cancelled.

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(2) The Company may for the purpose of providing money for paying off debenture stock issued by them under the powers of this Act as redeemable debenture stock or of providing substituted debenture stock create and issue new debenture stock either redeemable or irredeemable :

Provided always that the new debenture stock so created and issued by the Company shall not make the total nominal amount of the debenture stock (both redeemable and irredeemable) from time to time issued by the Company and outstanding exceed the amount of debenture stock which the Company are for the time being authorised to create and that unless any subsequent Act of Parliament otherwise authorises the new debenture stock so created and issued by the Company shall be created and issued as debenture stock ranking *pari passu* as regards principal interest and security with the debenture stock which the Company are authorised to create and issue by this Act :

Provided also that the powers of the Company of borrowing on mortgage or by the creation and issue of debenture stock shall not by reason of section 34 of the Companies Clauses Act 1863 be extinguished by the creation and issue of redeemable debenture stock under any of the provisions of this Act.

(3) If the Company deposit any redeemable debenture stock to secure advances from time to time on current account or otherwise such debenture stock shall not be taken to have been redeemed by reason only of the account of the Company having ceased to be in debit whilst such debenture stock remains so deposited.

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Power to form fund for redemption of redeemable debenture stock.

20.—(1) The Company may set aside out of revenue after providing for the payment of interest on any loan or on any debenture stock or of any dividend or interest on any guaranteed stock or preference stock and for other fixed charges and obligations such sums as they may consider proper for the purpose of forming a fund for the redemption at maturity of any debenture stock which is issued by them and which under the conditions of the creation and issue thereof is to be redeemed wholly or partly in cash and may invest any sums so set apart and the income therefrom in any securities in which trustees are for the time being by law authorised to invest trust funds or in any other securities (not being securities of the Company) in which the Company may be authorised to invest those sums by a resolution passed at a general meeting of the Company.

(2) Any sums so set apart shall be applied for the redemption at maturity of any debenture stock for the redemption of which they have been set apart but may if the directors of the Company think fit be also at any time applied in the purchase of any such stock at a price not exceeding the redemption price and any debenture stock so purchased shall be cancelled.

(3) All sums so set apart shall be shown in account No. 9 (Proposed appropriation of net income) of the accounts and returns prepared by the Company pursuant to the provisions of the Railway Companies' (Accounts and Returns) Act 1911.

Power to apply capital in purchase of redeemable debenture stock.

21. Any capital moneys which the Company now or at any time hereafter have in their hands and which may not be required for any purpose to which the same are made specially applicable by the Act or Acts by which they are authorised to be raised may if the directors of the Company think fit be at any time applied in the purchase of any redeemable debenture stock in the market or by tender at any price not exceeding the redemption price thereof Any debenture stock so purchased shall be cancelled.

Power to apply funds.

22. The Company may apply to the purposes of this Act or to the general purposes of their undertaking to which capital is properly applicable including the payment of interest under the provisions of the section of

this Act of which the marginal note is "Power to pay interest out of capital during construction" any of the moneys which they are by any Act relating to the Company authorised to raise and which may not be required for the purposes of those Acts respectively. A.D. 1923.
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23. Subject as hereinafter in this Act provided all moneys raised under the Act of 1910 the Act of 1913 and this Act whether by shares stock debenture stock or borrowing shall be applied only to the purposes to which capital is properly applicable. Application of moneys.

24. Notwithstanding anything in this Act or in the Act of 1910 the Act of 1913 and the Act of 1915 or in any Act or Acts incorporated with any of those Acts the Company may out of any moneys by the Act of 1910 the Act of 1913 and this Act authorised to be raised pay interest at such rate as the directors may determine to any holder of shares or stock on the amount from time to time paid up on the shares or stock created and issued under those Acts or under this Act (as the case may be) held by him from the respective times of such payments until the expiration of the time limited by this Act for the completion of the works by those Acts authorised or such less period as the directors may determine but subject always to the conditions hereinafter stated (that is to say):— Power to pay interest out of capital during construction.

(a) No such interest shall begin to accrue until the Company shall have deposited with the Minister of Transport a statutory declaration by two of the directors and the secretary of the Company that two-thirds at least of the capital in respect of which such interest may be paid has been actually issued and accepted and is held by shareholders or stockholders who or whose executors administrators or assigns are legally liable for the same:

(b) No such interest shall accrue in favour of any shareholder or stockholder for any time during which any call on any of his shares or stock is in arrear:

(c) The aggregate amount to be so paid for interest shall not exceed one hundred and twenty thousand pounds:

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(d) Notice that the Company have power so to pay interest out of capital shall be given in every prospectus advertisement or other document of the Company inviting subscriptions for shares or stock and in every certificate of such shares or stock which may be issued by or on behalf of the Company prior to the expiration of the period for which the directors of the Company may have determined that such interest shall be paid :

(e) The yearly accounts of the Company shall show the amount of capital on which and the rate at which interest has been paid in pursuance of this section :

Save as hereinbefore set forth no interest shall be paid out of any share or loan capital which the Company are by this or any other Act authorised to raise to any shareholder on the amount of the calls made in respect of the shares held by him but nothing in this Act shall prevent the Company from paying to any shareholder such interest on money advanced by him beyond the amount of the calls actually made as is in conformity with the Companies Clauses Consolidation Act 1845.

Repeal of section 82 of Act of 1910 and section 26 of Act of 1913.

Power to charge interest on debenture stock to capital account.

Appointment of receiver.

25. Section 82 (Power to pay interest out of capital during construction) of the Act of 1910 and section 26 (Payment of interest out of capital) of the Act of 1913 are hereby repealed.

26. The Company may charge to capital account the interest accruing until the twenty-sixth day of July one thousand nine hundred and twenty-eight or such earlier date as the directors may determine on all money which the Company may raise by borrowing or by the issue of debenture stock under this Act.

27.—(1) Section 22 (Appointment of receiver) of the Act of 1913 is hereby repealed but without prejudice to any appointment made or to the continuance of any proceedings which may have been commenced prior to the passing of this Act under that section.

(2) The mortgagees of the undertaking may enforce payment of arrears of interest or principal or principal and interest due on their mortgages by the appointment of a receiver In order to authorise the appointment of

a receiver in respect of arrears of principal the amount A.D. 1923.
owing to the mortgagees by whom the application for —
a receiver is made shall not be less than ten thousand
pounds in the whole.

28. All mortgages granted by the Company in Existing mortgages
pursuance of the powers of the Act of 1910 or the Act of to have
1913 and subsisting at the passing of this Act shall during priority.
the continuance of such mortgages and subject to the
provisions of the Act of 1910 or the Act of 1913 under
which such mortgages were respectively granted have
priority over any mortgages granted by virtue of this Act
but nothing in this section contained shall affect any
priority of the interest of any debenture stock at any
time created and issued by the Company.

29. If any money is payable to a shareholder Receipt in
stockholder mortgagee or debenture stockholder of the case of per-
Company being a minor idiot or lunatic the receipt of sons not sui
the guardian or committee of his estate shall be a juris.
sufficient discharge to the Company.

30. The powers of borrowing conferred on the Power of
Company by this Act shall not be subject to reduction borrowing
owing to the Company having purchased or purchasing not to be
lands in consideration of rentcharges or having paid or reduced by
paying under the provisions of this or any previous Act creation of
interest out of capital or having issued or issuing any rentcharges
ordinary or preference stock at a discount. &c.

31. Notwithstanding anything contained in any Directors
former Act relating to the Company or in this Act or may exer-
in any Act incorporated with such Acts the directors of cise powers.
the Company may from time to time by virtue of this
Act and without further or other sanction or authority
exercise all or any of the powers which are conferred on
the Company by this Part of this Act but nothing in
this section contained shall be deemed to limit the powers
of such directors to exercise on behalf of the Company
the powers conferred by any other Part of this Act.

PART IV.

ALTERATION OF LEVELS.

32. Subject to the provisions of this Act the Power to
Company may make and maintain in the lines and accord- make altera-
ing to the levels shown on the deposited plan and section tion of
levels.

A.D. 1923. — the alterations hereinafter described of the levels of a portion of Railway No. 5 authorised by the Act of 1910 with all proper approaches works and conveniences connected therewith or incidental thereto and may enter upon take and use such of the lands delineated on the deposited plan and described in the deposited book of reference as may be required for that purpose The alteration of levels hereinafter referred to and authorised by this Act will be wholly situate in the county of Surrey and is :—

An alteration of the levels of a portion of Railway No. 5 authorised by the Act of 1910 partly in the parish and urban district of Sutton and partly in the parish and urban district of Carshalton commencing in the parish and urban district of Sutton at a point on the centre line of that railway marked and measured on the plans deposited for and in connection with the said Act of 1910 2 miles 2 furlongs 9·7 chains from the commencement of such railway and terminating in the same parish and urban district at a point on the said centre line 2 miles 7 furlongs and 6 chains from the commencement of the said railway.

Power to deviate.

33. In the execution of the works authorised by the section of this Act of which the marginal note is "Power to make alteration of levels" the Company may deviate laterally to any extent not exceeding the limits of deviation shown on the deposited plan and may deviate vertically from the levels shown on the deposited section to any extent not exceeding five feet upwards or twenty-three feet downwards from the line denoting the upper surface of the rails.

Period for compulsory purchase of lands.

34. The powers of the Company for the compulsory purchase of lands for the purposes of the alteration of levels authorised by this Act shall cease after the expiration of five years from the passing of this Act.

Period for completion of alteration of levels.

35. If the alteration of levels of the railway as authorised by this Act are not completed within five years from the passing of this Act then on the expiration of that period the powers of this Act granted to the Company for making and completing the same or otherwise in relation thereto shall cease except as to so much thereof as is then completed.

36. The alteration of levels by this Act authorised shall for the purposes of tolls rates and charges and for all other purposes whatsoever be part of the railway authorised to be altered. A.D. 1923.
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Rates and charges.

37. The provisions contained in the sections of the Act of 1910 and the Act of 1913 which are enumerated and referred to in the schedule to this Act (except so far as the same or any part or parts thereof are expressly repealed amended or varied by this Act and subject to any such amendment or variation) are incorporated with and form part of this Act and shall so far as applicable extend and apply to the alteration of levels by this Act authorised and to the lands which the Company are by this Act authorised to acquire and to the several bodies or persons named or referred to in those sections and to the extent in those sections mentioned as fully and effectually to all intents and purposes as if those sections had been expressly re-enacted in this Act with reference thereto respectively. Incorporation of certain sections of Acts of 1910 and 1913.

38. Section 7 of the Act of 1913 the marginal note whereof is "As to construction of bridge on Dollars Estate" is hereby repealed. Repeal of section 7 of Act of 1913.

39. The Company and the Minister of Transport the county council of the administrative county of Surrey the urban district council of Sutton (Surrey) and the owners lessees and occupiers of land affected by the alteration of the levels of Railway No. 5 authorised by the Act of 1910 or any of them may enter into and carry into effect agreements with reference to the construction maintenance and repair of the works by this Act authorised the acquisition of lands therefor and the construction of the Sutton By-Pass Road and the defraying or making of contributions towards the cost of any such construction maintenance repair or acquisition. Agreements with Minister of Transport and others.

40. Whereas pursuant to the standing orders of both Houses of Parliament and the Parliamentary Deposits Act 1846 (in this section referred to as "the Act of 1846") a sum of eighteen thousand eight hundred and eighty-one pounds eight shillings and elevenpence two and one-half per centum consolidated stock (now thirteen thousand two hundred and fifty pounds one shilling and one penny five per centum war stock) was transferred into the name of the Paymaster-General for Additional deposit fund.

A.D. 1923
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and on behalf of the Supreme Court in respect of the application to Parliament for the Act of 1910 (hereinafter referred to as "the original deposit fund") And whereas a sum of six hundred and thirty-seven pounds eighteen shillings and threepence five per centum war stock being equal to five per centum upon the amount by which the estimate of expense of the works by the Act of 1910 authorised will be increased by reason of the works by this Act authorised has pursuant to the said standing orders and the Act of 1846 been transferred into the name of the Paymaster-General for and on behalf of the Supreme Court in respect of the application to Parliament for this Act (hereinafter referred to in this Act as "the additional deposit fund") Be it enacted that the additional deposit fund is hereby added to the original deposit fund and the provisions of sections 43 and 44 of the Act of 1910 in regard to the original deposit fund shall extend and apply to the additional deposit fund.

PART V.

MISCELLANEOUS.

As to first
and second
class car-
riages.

41. Notwithstanding anything contained in any former Act relating to the Company the Company shall be under no obligation to provide either first or second class carriages on any trains on their railway.

Passengers'
luggage.

42.—(1) Notwithstanding anything contained in any former Act relating to the Company every passenger travelling by any train running on the Company's railway or by any train of the Company may take with him his personal luggage not exceeding twenty-eight pounds in weight without any charge being made for the carriage thereof All such luggage shall be carried by and at the responsibility of the passenger and shall not occupy any seat or part of a seat or be so carried or be of such form or description as to annoy or inconvenience any other passenger Any provision of any Act requiring the carriage of any greater weight of luggage than in this section provided shall cease to apply as regards any passenger travelling by any such train Provided that the Company shall afford to passengers travelling on the railway in Metropolitan District Railway

Company's trains the same facilities for the conveyance of personal luggage as may be afforded for the time being to passengers travelling between Putney Bridge and Wimbledon in such trains. A.D. 1923.

(2) Section 50 (Passengers' luggage) of the Act of 1910 is hereby repealed.

43. Seven days before entering upon breaking up or otherwise interfering with any public street or road in connection with the construction of any works under the powers of this Act within the area of the metropolitan police district the Company shall give notice in writing to the Commissioner of Police of the Metropolis and make such arrangements with the said Commissioner of Police as may be reasonably necessary so as to cause as little interference with the traffic in such street or road during the construction of such works as may be reasonably practicable. For protection of Commissioner of Police of Metropolis.

44. The Company may acquire by agreement and hold for the purposes of their undertaking any interest less than the fee simple in any lands or any interest in any easement under any lands which they are authorised to acquire. Power to acquire leasehold interests and use lands held on lease.

45.—(1) When not less than forty per centum of the capital or estimated sum for defraying the expenses of the undertaking shall have been subscribed under contract binding the parties thereto for the payment of the several sums by them respectively subscribed it shall be lawful for the Company notwithstanding anything in section 16 of the Lands Clauses Consolidation Act 1845 or in the Act of 1910 to the contrary to put in force the powers of the said Act of 1845 the said Acts of 1910 1913 1915 and this Act or any Act incorporated therewith in relation to the compulsory taking of land for the purposes of and for the construction of the following works authorised by the Act of 1910 and this Act (that is to say):— Portion of capital to be subscribed before compulsory powers put in force.

So much of Railway No. 5 (including the alteration of levels thereof by this Act authorised) as lies between a point thereon two miles eight chains from its commencement and its termination and Railway No. 7 and the pathway at the termination thereof;

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and whenever a further forty per centum of the said capital or estimated sum shall have been subscribed as aforesaid it shall be lawful for the Company to put in force the aforesaid powers in relation to the remainder of the works authorised by the Act of 1910.

(2) A statutory declaration by two of the directors and the secretary of the Company certifying the sums from time to time subscribed as aforesaid and indicating the particular portion of railway and works to which the subscribed sum or sums are to be applied and for the purposes of which the Company require to put in force powers for the compulsory taking of land shall be deposited by the Company with the Minister of Transport and shall be sufficient evidence of the facts therein stated.

As to heads of agreement with landowners &c.

46. The Company on the one hand and the several persons or bodies of persons and the company parties to certain heads of agreement made the nineteenth day of April one thousand nine hundred and thirteen and confirmed by section 28 (Confirmation of heads of agreement with landowners &c.) of the Act of 1913 or any of them or any of their respective sequels in title on the other hand may enter into and carry into effect agreements amending varying cancelling or rescinding the obligations of such respective parties or any of them or of their respective sequels in title under the said heads of agreement for such considerations and on such terms and subject to such conditions and to such extent as may be agreed and except as otherwise expressly provided in any such agreement or agreements the provisions of the said heads of agreement shall remain in force.

Amendment of subsection (1) of section 66 of Act of 1910.

47. Subsection (1) of section 66 (For protection of Sutton Urban District Council) of the Act of 1910 shall be read and have effect as if the words "In constructing the railway under the following roads" were therein substituted for the words "Before opening for public traffic any part of the said railways."

For better prevention of trespass on railways of Company.

48. Any person who shall trespass upon any of the lines of railways or sidings or any part of the Company's railway in dangerous proximity to live electrical apparatus used for or in connection with the working of any railway now or hereafter belonging to or worked by the Company solely or in conjunction with any other company or companies shall on conviction be liable to a penalty not

exceeding forty shillings and the provisions of the Railways Clauses Consolidation Act 1845 with respect to the recovery of damages not specially provided for and of penalties and to the determination of any other matters referred to justices shall apply to this enactment Provided that no person shall be subject to any penalty under this enactment unless it shall be proved to the satisfaction of the justices before whom complaint is laid that by notices printed on boards or printed on paper and pasted on boards or enamelled on metal or otherwise as the Company may think fit and clearly exhibited public warning has been given to persons not to trespass upon the lines of railways or sidings or any part of the Company's railways in dangerous proximity to live electrical apparatus used for or in connection with the working of such railways or sidings and that one or more of such notices has been affixed at the station on such railway and at the public road level crossing (if any) nearest to the spot where such trespass is alleged to have been committed and such warning shall be renewed as often as the same shall be obliterated or destroyed and no penalty shall be recoverable unless such warning is so placed and renewed Provided also that no person lawfully crossing any such railway at any level crossing thereof shall be liable to any such penalty as aforesaid And provided lastly that this enactment shall not interfere with but shall be subject to any future general enactment on the subject of trespassing on railways.

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49. Subject to the conditions hereinafter set forth any metropolitan police magistrate or any two justices having jurisdiction in any one of the counties cities or boroughs in which the constables hereinafter mentioned are to act may on the application of the Company appoint all or so many as they think fit of the persons recommended to them for that purpose by the Company to act as special constables upon and within the whole of the railway stations and works belonging to or worked by the Company either solely or jointly with any other company companies or committee and the following provisions shall apply to every appointment so made :—

Special
constables.

- (1) Every person so appointed shall make oath or declaration in due form of law before any metropolitan police magistrate or any justice having jurisdiction in any one of the counties

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- cities or boroughs in which such person is to act duly to execute the office of a constable :
- (2) Every person so appointed and having been sworn or having made declaration as aforesaid shall during the continuance of his appointment have all the powers protection and privileges of a constable in respect of the exercise of his duties and may follow and arrest any person who has departed from any of the said railways stations or works after committing therein or thereon any offence for which he might have been arrested while within or upon the said railways stations or works :
 - (3) Any metropolitan police magistrate or any two justices assembled and acting together or the Company may dismiss from his office or accept the resignation of any constable so appointed and thereupon all powers protections and privileges belonging to such person by virtue of such appointment shall wholly cease No person so dismissed or resigning shall be capable of being reappointed except with the consent of the authority by whom he was dismissed :
 - (4) The local authorities of any county city or borough shall not be liable for any expense of or be responsible for any acts or defaults of such constables or for anything connected with or consequent upon their appointment and nothing in this Act contained shall restrict or affect the jurisdiction or powers of the respective local authorities of the county city or borough as the case may be or of any police force :
 - (5) A constable appointed as aforesaid shall not act as such unless he be in uniform or provided with an authority to act as a constable which authority the magistrate or justice before whom such constable makes oath or declaration as aforesaid is hereby empowered to grant and if the constable be not in uniform he shall show such authority whenever called upon to do so.

Power to
establish or
subscribe to
funds for

50. The Company either alone or in conjunction with any other railway companies or any statutory or limited companies or any bodies societies or persons may

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subscribe to any fund established under section 22 of the London Electric Railway Act 1919 and to any medical charitable or educational institutions to which any former employees or employees for the time being of the Company or of any such other railway companies or statutory or limited companies or bodies societies or persons or any dependants or widows of any such employees as aforesaid may apply for assistance or relief and may establish or subscribe to a fund or funds for assisting in any manner thought fit any such employees or any such dependants or widows as aforesaid.

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assistance of
employees
&c.

51. The Company shall not out of any money by this Act authorised to be raised pay or deposit any sum which by any standing order of either House of Parliament now or hereafter in force may be required to be deposited in respect of any application to Parliament for the purpose of obtaining an Act authorising the Company to construct any other railway or to execute any other work or undertaking.

Deposits for
future Bills
not to be
paid out of
capital.

52. Nothing in this Act contained shall exempt the Company or their railways from the provisions of any general Act relating to railways or the better and more impartial audit of the accounts of railway companies passed before or after the commencement of this Act or from any future revision or alteration under the authority of Parliament of the maximum rates of fares and charges or of the rates for small parcels authorised to be taken by the Company.

Provision as
to general
Railway
Acts.

53. All costs charges and expenses of and incident to the preparing for obtaining and passing of this Act or otherwise in relation thereto shall be paid by the Company.

Costs of Act.

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The SCHEDULE above referred to.

PROVISIONS OF THE ACTS OF 1910 AND 1913 WHICH ARE INCORPORATED WITH THIS ACT AND WHICH ARE REFERRED TO IN THE SECTION OF THIS ACT OF WHICH THE MARGINAL NOTE IS "INCORPORATION OF CERTAIN SECTIONS OF ACTS OF 1910 AND 1913."

Marginal Note of Section.	Number of Section.
ACT OF 1910.	
Persons under disability may grant easements &c. -	38
As to private rights of way over lands taken compulsorily.	40
ACT OF 1913.	
Power to Company to enter upon property for survey and valuation.	10
Costs of arbitration in certain cases - - -	11
Compensation in case of recently altered buildings acquired by Company.	12
Power to deal with surplus lands - - - -	13

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